

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

A rectangular stamp with a double-line border. Inside, the words "U.S. DISTRICT COURT" are at the top, "NORTHERN DISTRICT OF TEXAS" is in the middle, and "FILED" is at the bottom. In the center of the stamp is a rectangular box containing the handwritten date "JUN 24 2005".

HENNESSEY HUNT,

Petitioner,

V.

2:05-CV-0021

DOUGLAS DRETKE, Director,
Texas Department of Criminal
Justice, Institutional Division,

Respondent.

**ORDER ADOPTING REPORT AND RECOMMENDATION AND
DENYING ISSUANCE OF A CERTIFICATE OF APPEALABILITY**

On May 25, 2005, petitioner HENNESSEY HUNT filed a notice of appeal in the above-captioned habeas corpus case in which the detention complained of arises out of process issued by a State court. Specifically, petitioner attempts to appeal the Judgment entered in this case on April 29, 2005 wherein the United States District Judge adopted the Report and Recommendation of the United States Magistrate Judge dismissing petitioner's case for failure to pay the filing fee.¹ On June 1, 2005, the Magistrate Judge entered a Report and Recommendation to deny issuance of a certificate of appealability. On June 17, 2005, petitioner filed objections to the Report and Recommendation.

Petitioner originally claimed he submitted his form I-25 in November of 2004. Payment was not received by the Clerk as of March of 2005, however, and a Report and Recommendation to

¹The filing fee was received by the Clerk after the case had been dismissed. Such fee was returned to petitioner. No motion to reopen the case was ever filed.

dismiss was entered. On March 29, 2005, petitioner filed objections to the Report and Recommendation and claimed that he has had difficulty obtaining the payment of the filing fee in this case because he is in "high security." In his objections, petitioner further stated that he was unaware of a hold placed on his inmate trust account. Petitioner claimed such hold would be lifted April 10, 2005. Based upon such representation, petitioner was given until April 20, 2005 to pay the filing fee. Petitioner was admonished again that failure to pay the fee would result in a recommendation of dismissal, and that if petitioner encountered any problems he was to inform the Court prior to the April 20, 2005 deadline. Petitioner failed to pay the fee or inform the Court of any such trouble.

Along with the instant objections, petitioner has submitted, for the first time, the following:

Document 1 - an undated I-25 form;

Document 2 - an undated I-25 form;

Document 3 - an Inmate Request to Official dated November 3, 2004;

Document 4 - an undated document entitled "Truck Mail" and the word "withdrawls" (sic) written on it, with a second page with a notation petitioner's request was received 11-23-04 and sent to Tyler the same day;²

Document 5 - an undated I-25 form;

Document 6 - an undated I-25 form;

Document 7 - an additional Inmate Request to Official dated November 3, 2004;

Document 8 - an Inmate Request to Official dated May 4, 2005, approximately 2 weeks after the April 20, 2005 deadline; and

Document 9 - an envelope from petitioner to the clerk postmarked June 13, 2005,

None of these documents evidence any difficulty experienced by petitioner during the time at issue.

Petitioner has provided nothing to demonstrate why his filing fee was untimely received. Further, petitioner failed, during the period initially allowed by the Court and during the extension of time, to inform the Court of any trouble he was having paying the filing fee.

For the reasons stated in the June 1, 2005 Report and Recommendation, it is the opinion of

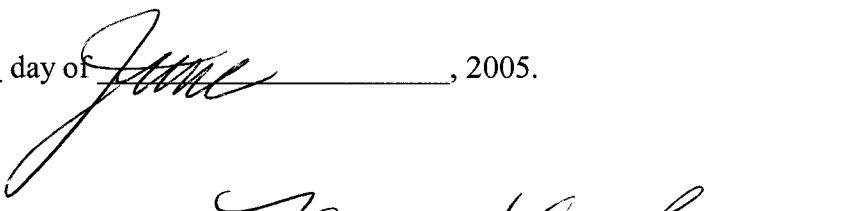
²Inquiries to the clerk of the Tyler Court prior to the issuance of any orders or Report and Recommendations show no fee was ever received.

the Court that no Certificate of Appealability should issue.

THEREFORE, this Court denies issuance of a Certificate of Appealability.

IT IS SO ORDERED.

ENTERED this 24 day of June, 2005.



MARY LOU ROBINSON
UNITED STATES DISTRICT JUDGE